

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Cheng Gui Weng,

Plaintiff

— against —

Kirstjen Nielsen and L. Francis Cissna,

Defendants.

**18-cv-1649 (ARR) (RER)**

**Order adopting report and  
recommendation**

**Not for electronic or print  
publication**

Ross, United States District Judge:


This Court has received the report and recommendation, dated October 15, 2018, from the Honorable Ramon E. Reyes, United States Magistrate Judge. R. & R., ECF No. 4. After the plaintiff failed to respond to the court's September 24, 2018 order to show cause, Judge Reyes issued this *sua sponte* report and recommendation urging that the case be dismissed without prejudice on one of two alternative grounds: (1) the plaintiff has failed to timely serve the summons and complaint on the defendants under Rule 4(m); and (2) the plaintiff has failed to prosecute under Rule 41(b). *Id.* at 2. The complaint was originally filed on March 16, 2018, and the plaintiff failed to provide proof of service by September 21, 2018, despite promising to do so in a status report dated September 14, 2018. *Id.*

Objections to the R. & R. were due by October 29, 2018, but none have been filed. The court reviews "de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b); *see also* *Brissett v. Manhattan & Bronx Surface Transit Operating Auth.*, No. 09-CV-874, 2011 WL 1930682, at \*1 (E.D.N.Y. May 19, 2011). Where no timely objections have been filed, "the district court need only satisfy itself that there is no clear error on the face of the record." *Finley v. Trans Union, Experian, Equifax*, No. 17-CV-0371, 2017

WL 4838764, at \*1 (E.D.N.Y. Oct. 24, 2017) (quoting *Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011)).

Having reviewed the record, I find no clear error. I therefore adopt the R. & R. in its entirety as the opinion of the Court, pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the action is dismissed without prejudice under Rule 4(m) for failure to serve the complaint, or, alternatively, under Rule 41(b) for failure to prosecute. *Cf. Brown v. Watson*, No. 3:12-CV-03147, 2013 WL 5287664, at \*1 (W.D. Ark. Sept. 19, 2013) (adopting a recommendation to dismiss a case based on “the various and alternative grounds set forth in the report and recommendation[ ]”).

SO ORDERED.

  
Allyne R. Ross  
United States District Judge

Dated: October 31, 2018  
Brooklyn, New York